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## In the Supreme Court of the United States.

OCTOBER TERM, 1903.

Office Supreme Court U. S.
FILED
JAN 6 1904
JAMES H. McKENNEY,
Clerk.

No. 119.

ALVIN L. LEIGH,
*Plaintiff in Error.*

vs.

HENRY S. GREEN,
*Defendant in Error.*

Motion to Dismiss.

W. R. GREEN,
ED. P. SMITH,

*Attorneys for Defendant in Error.*

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*Defendant in Error.*

Motion to Dismiss.

The defendant in error, Henry S. Green moves the court to dismiss this cause for want of jurisdiction for the following reasons, to-wit:—

1. There was not drawn in question the validity of any statute of the State of Nebraska or any authority exercised under any statute of the State of Nebraska, nor was any federal right specially set up or claimed when this cause was presented to and tried in the District Court of the State of Nebraska.

2. No title, right, privilege or immunity was specially set up or claimed under the constitution of the United States by the Plaintiff in error in the pleadings filed in the District Court of the State of Nebraska nor was any title right, privilege or immunity specially set up or claimed under the constitution of the United States until the filing of his petition for a rehearing after judgment in the Supreme Court of the State of Nebraska.

3. The title, right, privilege and immunity claimed under the constitution of the United States by the plaintiff in error was not specially set up or claimed at the proper time or in the proper way and was not specially set up or claimed until the petition for a rehearing after judgment in the Supreme Court of the State of Nebraska.

WHEREFORE the defendant in error moves that said cause be dismissed out of said court.

HENRY S. GREEN,
By W. R. GREEN,
ED. P. SMITH,
*His Attorneys.*